

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

DAVID ALEXANDER LEAF, M.D.)

Case No. 800-2016-027883

**Physician's and Surgeon's
Certificate No. G61863**

Respondent

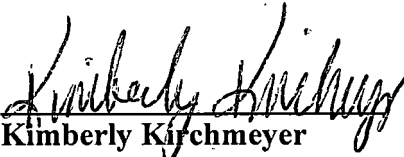
DECISION

**The attached Stipulated Surrender of Certificate and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on September 27, 2018

IT IS SO ORDERED September 20, 2018

MEDICAL BOARD OF CALIFORNIA

By: 
**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 MARGARET J. PHE
Deputy Attorney General
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7 *Attorneys for Complainant*
Medical Board of California

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

13 DAVID ALEXANDER LEAF, M.D.

14 316 33rd Place
Manhattan Beach, CA 90266

15 Physician's and Surgeon's Certificate No. G
16 61863,

17 Respondent.

Case No. 800-2016-027883

OAH No. 2018050659

**STIPULATED SURRENDER OF
CERTIFICATE AND ORDER**

18
19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Margaret J. Phe,
25 Deputy Attorney General.

26 2. David Alexander Leaf, M.D. (Respondent) is represented in this proceeding by
27 attorney David J. Givot, whose address is: 3780 Kilroy Airport Way, Suite 200,
28 Long Beach, CA 90806.

3. On or about November 23, 1987, the Board issued Physician's and Surgeon's Certificate No. G 61863 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-027883 and will expire on December 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-027883 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 26, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2016-027883 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-027883. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

ACKNOWLEDGMENTS

8. Respondent understands and agrees that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate. Respondent hereby gives up his right to contest these charges and he agrees that his Physician's and Surgeon's Certificate is subject to discipline for unprofessional

1 conduct.

2 9. Respondent desires and agrees to surrender his Physician's and Surgeon's Certificate
3 for the Board's formal acceptance, thereby giving up his right to practice medicine in the State of
4 California.

5 **CONTINGENCY**

6 10. This stipulation shall be subject to approval by the Board. Respondent understands
7 and agrees that counsel for Complainant and the staff of the Board may communicate directly
8 with the Board regarding this stipulation and surrender, without notice to or participation by
9 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
10 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
11 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
12 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
13 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
14 be disqualified from further action by having considered this matter.

15 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
16 copies of this Stipulated Surrender of License and Order, including Portable Document Format
17 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

18 12. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following Order:

20 **STIPULATION AND ORDER**

21 **IT IS THEREFORE STIPULATED AND ORDERED** as follows:

22 1. **SURRENDER.** Respondent hereby agrees that he will surrender his wall and wallet
23 Physician's and Surgeon's Certificates and all other indicia of his right to practice medicine in the
24 State of California to the Board or its representative on or before the effective date of this
25 Decision, and the Board agrees to accept this surrender in resolution of this matter.

26 2. **REINSTATEMENT.** Respondent fully understands and agrees that if he ever files
27 an application for re-licensure or reinstatement in the State of California, the Board shall treat it
28 as a petition for reinstatement. Respondent must comply with all the laws, regulations and

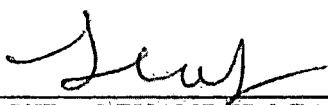
1 procedures for reinstatement of a revoked license in effect at the time any petition is filed,
2 including but not limited to Business and Professions Code section 823, and he understands and
3 agrees that all of the allegations and causes for discipline contained in Accusation No. 800-2016-
4 027883 will be deemed to be true, correct and admitted by him for purposes of the Board's
5 determination whether to grant or deny the petition. Respondent understands and agrees that he
6 may not petition for reinstatement for at least three years from the effective date of this Decision.
7 Respondent hereby waives any time-based defense he might otherwise have to the charges
8 contained in Accusation No. 800-2016-027883 including, but not limited to, the statute of
9 limitations or equitable defense of laches.

10 3. Respondent understands that by signing this Stipulation, he is enabling the Board to
11 issue its order accepting the surrender of his license without further process. He further
12 understands that upon acceptance of this Stipulation by the Board, he will no longer be permitted
13 to practice as a physician and surgeon in California.

14 ACCEPTANCE

15 I have carefully read the above Stipulated Surrender of Certificate and Order and have fully
16 discussed it with my attorney, David J. Givot, Esq. I understand the stipulation and the effect it
17 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
18 Certificate and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
19 Decision and Order of the Medical Board of California. By signing this Stipulation to surrender
20 my license, I recognize that as of the effective date of this Decision, I will lose all rights and
21 privileges as a physician and surgeon in the State of California and, if I have not already done so,
22 I also will cause to be delivered to the Board both my license and wallet certificates on or before
23 the effective date of the Decision.

24
25 DATED: 8/28/2018


26 DAVID ALEXANDER LEAF, M.D.
27 Respondent
28

1 APPROVAL

2 I have read and fully discussed with Respondent David Alexander Leaf, M.D. the terms and
3 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

4 I approve its form and content.

5 

6 DATED: 08/28/2018

7 DAVID J. GIVOT
8 *Attorney for Respondent*

9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board.

12 Dated: August 28, 2018

Respectfully Submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 ROBERT MCKIM BELL
16 Supervising Deputy Attorney General

17 

18 MARGARET J. PHE
19 Deputy Attorney General
20 *Attorneys for Complainant*
21 *Medical Board of California*

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EXHIBIT A

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 MARGARET J. PHE
Deputy Attorney General
4 State Bar No. 207205
California Department of Justice
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6 Telephone: (213) 576-7776
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 7, 2017
BY ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2016-027883

12 DAVID ALEXANDER LEAF, M.D.

A C C U S A T I O N

13 316 33rd Place
14 Manhattan Beach, CA 90266

15 Physician's and Surgeon's Certificate
No. G 61863,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about November 23, 1987, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 61863 to David Alexander Leaf, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on December 31, 2018, unless renewed.

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4. Section 2227 of the Code states:

“(1) Have his or her license revoked upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon of the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

///

1 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 “...”

4 6. Section 2236 of the Code states:

5 “(a) The conviction of any offense substantially related to the qualifications, functions, or
6 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
7 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
8 occurred.

9 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
10 Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor
11 immediately upon obtaining information that the defendant is a licensee. The notice shall identify
12 the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall
13 also notify the clerk of the court in which the action is pending that the defendant is a licensee,
14 and the clerk shall record prominently in the file that the defendant holds a license as a physician
15 and surgeon.

16 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
17 after the conviction, transmit a certified copy of the record of conviction to the board. The
18 division may inquire into the circumstances surrounding the commission of a crime in order to fix
19 the degree of discipline or to determine if the conviction is of an offense substantially related to
20 the qualifications, functions, or duties of a physician and surgeon.

21 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
22 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
23 shall be conclusive evidence of the fact that the conviction occurred.”

24 7. Section 2239 of the Code states:

25 “(a) The use or prescribing for or administering to himself or herself, of any controlled
26 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
27 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
28 any other person or to the public, or to the extent that such use impairs the ability of the licensee

1 to practice medicine safely or more than one misdemeanor or any felony involving the use,
2 consumption, or self-administration of any of the substances referred to in this section, or any
3 combination thereof, constitutes unprofessional conduct. The record of the conviction is
4 conclusive evidence of such unprofessional conduct.

5 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
6 deemed to be a conviction within the meaning of this section. The Medical Board may order
7 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the
8 denial of the license when the time for appeal has elapsed or the judgment of conviction has been
9 affirmed on appeal or when an order granting probation is made suspending imposition of
10 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
11 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,
12 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or
13 indictment.”

14 8. Section 490 of the Code states:

15 “(a) In addition to any other action that a board is permitted to take against a licensee, a
16 board may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
18 or profession for which the license was issued.

19 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
20 discipline a licensee for conviction of a crime that is independent of the authority granted under
21 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
22 of the business or profession for which the licensee's license was issued.

23 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
24 conviction following a plea of nolo contendere. Any action that a board is permitted to take
25 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
26 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
27 made suspending the imposition of sentence, irrespective of a subsequent order under the
28 provisions of Section 1203.4 of the Penal Code.

1 “(d) The Legislature hereby finds and declares that the application of this section has been
2 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
3 554, and that the holding in that case has placed a significant number of statutes and regulations
4 in question, resulting in potential harm to the consumers of California from licensees who have
5 been convicted of crimes. Therefore, the Legislature finds and declares that this section
6 establishes an independent basis for a board to impose discipline upon a licensee, and that the
7 amendments to this section made by Chapter 33 of the Statutes of 2008, do not constitute a
8 change to, but rather are declaratory of, existing law.”

9 9. California Code of Regulations, title 16, section 1360, states:

10 “For the purposes of denial, suspension or revocation of a license, certificate or permit
11 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
12 considered to be substantially related to the qualifications, functions or duties of a person holding
13 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
14 evidences present or potential unfitness of a person holding a license, certificate or permit to
15 perform the functions authorized by the license, certificate or permit in a manner consistent with
16 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
17 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
18 violation of, or conspiring to violate any provision of the Medical Practice Act.”

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of a Crime)**

21 10. Respondent is subject to disciplinary action pursuant to Code section 2234,
22 subdivision (a), Code section 2236, subdivision (a), Code section 490, and California Code of
23 Regulations, title 16, section 1360, in that he has been convicted of a crime substantially related
24 to the qualifications, functions, or duties of a physician. Specifically, Respondent was convicted
25 of the crime of driving with a 0.08% or greater blood alcohol concentration in violation of
26 Vehicle Code section 23152, subdivision (b), a misdemeanor. The circumstances are as follows:

27 A. On October 4, 2016, at approximately 3:40 p.m., the Manhattan Beach Police
28 Department (“MBPD”) was contacted by a witness regarding a hit-and-run suspect vehicle in

1 Manhattan Beach, California. The driver of the vehicle had collided with two vehicles and had
2 attempted to flee the scene, but witnesses blocked him in. When officers arrived at the scene,
3 they identified Respondent by his California driver's license.

4 B. According to witnesses, Respondent drove out of his lane numerous times and drove
5 into oncoming traffic before colliding with a vehicle. After the first collision, Respondent failed
6 to stop. Two witnesses followed Respondent until they blocked his vehicle at a dead-end. While
7 attempting to drive away after being blocked in, Respondent struck a second vehicle.

8 C. When MBPD officers arrived at the scene, they found an empty Popov 375 ml vodka
9 bottle on the front driver's side floorboard of Respondent's vehicle.

10 D. Respondent displayed symptoms of intoxication (i.e., bloodshot and watery eyes,
11 slurred speech, strong odor of an alcoholic beverage on his person). A Field Sobriety Test was
12 attempted, but stopped for Respondent's safety due to his falling over.

13 E. Respondent stated he had pain all over his body from running on cobblestones for
14 three days, that he was under a lot of stress, and that he was taking Clonazepam.¹ When asked
15 how much Clonazepam he had taken, Respondent stated he had doubled his normal dose and had
16 taken two 1 mg pills at approximately 2:00 p.m. that day. Respondent denied that he had been
17 drinking.

18 F. Respondent was subsequently placed under arrest for: 1) driving a vehicle under the
19 influence of an alcoholic beverage and/or drug, in violation of Vehicle Code section 23152,
20 subdivisions (a) and (e); and 2) fleeing the scene of an accident without stopping to exchange
21 information, in violation of Vehicle Code section 20002, subdivision (a).

22 G. Thereafter, Respondent was transported to Reliant Medical Center, where a blood
23 sample was obtained from Respondent and booked into evidence. The blood alcohol
24 concentration yielded the result of 0.19%.

25
26 ¹ Clonazepam is a benzodiazepine. It affects chemicals in the brain that may be
27 unbalanced. Clonazepam is also a seizure medicine, also called an anti-epileptic drug. It is used
28 to treat certain seizure disorders (including absence seizures or Lennox-Gastaut syndrome) in
adults and children. Clonazepam is also used to treat panic disorder (including agoraphobia) in
adults.

1 H. After Respondent was transported to the Manhattan Beach Jail for booking, an officer
2 discovered a loose single round 1 mg Clonazepam green pill in Respondent's shirt pocket during
3 the booking search. When asked whether he was a physician, Respondent responded that he was
4 a "scientist."

5 I. In *The People of the State of California v. David Alexander Leaf*, Los Angeles
6 County Superior Court case number 6TR08487, Respondent was charged with one misdemeanor
7 count of violating Vehicle Code section 23152, subdivision (a) (driving under the influence of an
8 alcoholic beverage), one misdemeanor count of violating Vehicle Code section 23152,
9 subdivision (b) (driving with a 0.08% or greater blood alcohol concentration), and one
10 misdemeanor count of violating Vehicle Code section 20002, subdivision (a) (hit and run driving
11 resulting in property damage).

12 J. At the arraignment hearing on January 5, 2017, the Court ordered Respondent to
13 attend one Alcoholics Anonymous meeting per week.

14 K. On January 26, 2017, Respondent pled guilty to and was convicted of violating
15 Vehicle Code section 23152, subdivision (b) (driving with a 0.08% or greater blood alcohol
16 concentration), a misdemeanor, and was placed on summary probation for a period of three (3)
17 years. In addition to paying fees and fines, Respondent's probation included the following terms
18 and conditions:

- 19 a. Enroll and participate in, and successfully complete, a six-month licensed first-
20 offender alcohol and other drug education and counseling program;
- 21 b. Not drive any vehicle with any measurable amount of alcohol or drugs in his
22 blood or refuse to take and complete any blood alcohol or drug chemical test,
23 any field sobriety test, and any preliminary alcohol screening test, when
24 requested by any peace officer;
- 25 c. Not drive a motor vehicle without a valid driver's license in his possession or
26 without liability insurance in at least the minimum amounts required by law;
27 and
- 28 d. Obey all laws and orders of the Court.

1 The remaining counts against Respondent were dismissed.

2 L. On May 1, 2017, a Special Investigator for the Medical Board of California,
3 requested and obtained a Controlled Substance Utilization Review and Evaluation System
4 ("CURES") report showing the medications that Respondent has been prescribed for the past
5 three years. However, there is no entry showing that Respondent was prescribed Clonazepam
6 during that period.

7 Respondent's acts and/or omissions as set forth above in subparagraphs A through L,
8 whether proven individually, jointly, or in any combination thereof, constitute a conviction of a
9 crime substantially related to the qualifications, functions, or duties of a physician and surgeon
10 pursuant to Code section 2234, subdivision (a), Code section 2236, subdivision (a), Code section
11 490, and California Code of Regulations, title 16, section 1360.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Excessive Use of Drugs or Alcohol in a Dangerous Manner)**

14 11. Respondent is subject to disciplinary action pursuant to Code section 2234,
15 subdivision (a), Code section 2239, and California Code of Regulations, title 16, section 1360, in
16 that he was convicted of a crime involving the excessive use of drugs or alcohol (driving with a
17 0.08% or greater blood alcohol concentration in violation of Vehicle Code section 23152,
18 subdivision (b)). Pursuant to Code section 2239, this type of crime constitutes unprofessional
19 conduct because it involves the use of drugs or alcohol "in such a manner as to be dangerous or
20 injurious to the licensee, or to any other person or to the public."

21 Respondent's acts and/or omissions as set forth above in paragraph 10, subparagraphs A
22 through L, whether proven individually, jointly, or in any combination thereof, constitute use of
23 drugs or alcohol in such a manner as to be dangerous or injurious to Respondent, or to any other
24 person or to the public pursuant to Code section 2234, subdivision (a), Code section 2239, and
25 California Code of Regulations, title 16, section 1360.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 12. Respondent is subject to disciplinary action pursuant to Code section 2234,
4 subdivision (a), and California Code of Regulations, title 16, section 1360, in that he engaged in
5 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
6 unbecoming to a member in good standing of the medical profession, and which demonstrates an
7 unfitness to practice medicine.

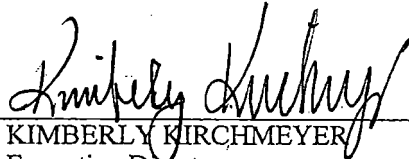
8 Respondent's acts and/or omissions as set forth above in paragraph 10, subparagraphs A
9 through L, whether proven individually, jointly, or in any combination thereof, constitute conduct
10 which breaches the rules or ethical code of the medical profession, or conduct which is
11 unbecoming to a member in good standing of the medical profession, and which demonstrates an
12 unfitness to practice medicine pursuant to Code section 2234, subdivision (a), and California
13 Code of Regulations, title 16, section 1360.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Medical Board of California issue a decision:

- 17 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 61863,
18 issued to David Alexander Leaf, M.D.;
- 19 2. Revoking, suspending or denying approval of his authority to supervise physician
20 assistants and advanced practice nurses;
- 21 3. If placed on probation, ordering him to pay the Board the costs of probation
22 monitoring; and
- 23 4. Taking such other and further action as deemed necessary and proper.

24
25 DATED: September 7, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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